

CITIBANK, N.A. (FORMERLY FIRST NATIONAL CITY BANK) AND INVESTORS; FINANCE CORPORATION, DOING BUSINESS UNDER THE NAME AND STYLE OF FNCB FINANCE, PETITIONERS, VS. MODESTA R. SABEN...

G.R. No. 156132. February 06, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

On 16 October 2006, this Court promulgated its Decision[1] in the above-entitled case, the dispositive portion of which reads -

IN VIEW OF THE FOREGOING, the instant Petition is PARTLY GRANTED. The assailed Decision of the Court of Appeals in CA-G.R. No. 51930, dated 26 March 2002, as already modified by its Resolution, dated 20 November 2002, is hereby AFFIRMED WITH MODIFICATION, as follows -

- PNs No. 23356 and 23357 are DECLARED subsisting and outstanding. Petitioner Citibank is ORDERED to return to respondent the principal amounts of the said PNs, amounting to Three Hundred Eighteen Thousand Eight Hundred Ninety-Seven Pesos and Thirty-Four Centavos (P318,897.34) and Two Hundred Three Thousand One Hundred Fifty Pesos (P203,150.00), respectively, plus the stipulated interest of Fourteen and a half percent (14.5%) per annum, beginning 17 March 1977;

- The remittance of One Hundred Forty-Nine Thousand Six Hundred Thirty Two US Dollars and Ninety-Nine Cents (US\$149,632.99) from respondent's Citibank-Geneva accounts to petitioner Citibank in Manila, and the application of the same against respondent's outstanding loans with the latter, is DECLARED illegal, null and void. Petitioner Citibank is ORDERED to refund to respondent the said amount, or its equivalent in Philippine currency using the exchange rate at the time of payment, plus the stipulated interest for each of the fiduciary placements and current accounts involved, beginning 26 October 1979;

- Petitioner Citibank is ORDERED to pay respondent moral damages in the amount of Three Hundred Thousand Pesos (P300,000.00); exemplary damages in the amount of Two Hundred Fifty Thousand Pesos (P250,000.00); and attorney's fees in the amount of Two Hundred Thousand Pesos (P200,000.00); and

- Respondent is ORDERED to pay petitioner Citibank the balance of her outstanding loans, which, from the respective dates of their maturity to 5 September 1979, was computed to be in the sum of One Million Sixty-Nine Thousand Eight Hundred Forty-Seven Pesos and Forty Centavos (P1,069,847.40), inclusive of interest. These outstanding loans shall continue to earn interest, at the rates stipulated in the corresponding PNs, from 5 September 1979 until payment thereof.

Subsequent thereto, respondent Modesta R. Sabeniano filed an Urgent Motion to Clarify and/or Confirm Decision with Notice of Judgment on 20 October 2006; while, petitioners Citibank, N.A. and FNCB Finance[2] filed their Motion for Partial Reconsideration of the foregoing Decision on 6 November 2006.

The facts of the case, as determined by this Court in its Decision, may be summarized as follows.

Respondent was a client of petitioners. She had several deposits and market placements with petitioners, among which were her savings account with the local branch of petitioner Citibank (Citibank-Manila[3]); money market placements with petitioner FNCB Finance; and dollar accounts with the Geneva branch of petitioner Citibank (Citibank-Geneva). At the same time, respondent had outstanding loans with petitioner Citibank, incurred at Citibank-Manila, the principal amounts aggregating to P1,920,000.00, all of which had become due and demandable by May 1979. Despite repeated demands by petitioner Citibank, respondent failed to pay her outstanding loans. Thus, petitioner Citibank used respondent's deposits and money market placements to off-set and liquidate her outstanding obligations, as follows -

Respondent's outstanding obligation (principal and interest as of 26 October 1979) P 2,156,940.58

Less:

Proceeds from respondent's money market placements with petitioner FNCB Finance (principal and interest as of 5 September 1979) (1,022,916.66)

Deposits in respondent's bank accounts with petitioner Citibank (31,079.14)

Proceeds of respondent's money market placements and dollar accounts with Citibank-Geneva (peso equivalent as of 26 October 1979) (1,102,944.78)

Balance of respondent's obligation P 0.00

Respondent, however, denied having any outstanding loans with petitioner Citibank. She likewise denied that she was duly informed of the off-setting or compensation thereof made by petitioner Citibank using her deposits and money market placements with petitioners. Hence, respondent sought to recover her deposits and money market placements.

Respondent instituted a complaint for "Accounting, Sum of Money and Damages" against petitioners, docketed as Civil Case No. 11336, before the Regional Trial Court (RTC) of Makati City. After trial proper, which lasted for a decade, the RTC rendered a Decision[4] on 24 August 1995, the dispositive portion of which reads -

WHEREFORE, in view of all the foregoing, decision is hereby rendered as follows:

(1) Declaring as illegal, null and void the setoff effected by the defendant Bank [petitioner Citibank] of plaintiff's [respondent Sabeniano] dollar deposit with Citibank, Switzerland, in the amount of US\$149,632.99, and ordering the said defendant [petitioner Citibank] to refund the said amount to the plaintiff with legal interest at the rate of twelve percent (12%) per annum, compounded yearly, from 31 October 1979 until fully paid, or its peso equivalent at the time of payment;

(2) Declaring the plaintiff [respondent Sabeniano] indebted to the defendant Bank [petitioner Citibank] in the amount of P1,069,847.40 as of 5 September 1979 and ordering the plaintiff [respondent Sabeniano] to pay said amount, however, there shall be no interest and penalty charges from the time the illegal setoff was effected on 31 October 1979;

(3) Dismissing all other claims and counterclaims interposed by the parties against each other.

Costs against the defendant Bank.

All the parties appealed the afore-mentioned RTC Decision to the Court of Appeals, docketed as CA-G.R. CV No. 51930. On 26 March 2002, the appellate court promulgated its Decision,[5] ruling entirely in favor of respondent, to wit -

Wherefore, premises considered, the assailed 24 August 1995 Decision of the court a quo is hereby

AFFIRMED with MODIFICATION, as follows:

- Declaring as illegal, null and void the set-off effected by the defendant-appellant Bank of the plaintiff-appellant's dollar deposit with Citibank, Switzerland, in the amount of US\$149,632.99, and ordering defendant-appellant Citibank to refund the said amount to the plaintiff-appellant with legal interest at the rate of twelve percent (12%) per annum, compounded yearly, from 31 October 1979 until fully paid, or its peso equivalent at the time of payment;

- As defendant-appellant Citibank failed to establish by competent evidence the alleged indebtedness of plaintiff-appellant, the set-off of P1,069,847.40 in the account of Ms. Sabeniano is hereby declared as without legal and factual basis;

- As defendants-appellants failed to account the following plaintiff-appellant's money market placements, savings account and current accounts, the former is hereby ordered to return the same, in accordance with the terms and conditions agreed upon by the contending parties as evidenced by the certificates of investments, to wit:

- (i) Citibank NNPN Serial No. 023356 (Cancels and Supersedes NNPN No. 22526) issued on 17 March 1977, P318,897.34 with 14.50% interest p.a.;

- (ii) Citibank NNPN Serial No. 23357 (Cancels and Supersedes NNPN No. 22528) issued on 17 March 1977, P203,150.00 with 14.50 interest p.a.;

- (iii) FNCB NNPN Serial No. 05757 (Cancels and Supersedes NNPN No. 04952), issued on 02 June 1977, P500,000.00 with 17% interest p.a.;

- (iv) FNCB NNPN Serial No. 05758 (Cancels and Supersedes NNPN No. 04962), issued on 02 June 1977, P500,000.00 with 17% interest per annum;

- (v) The Two Million (P2,000,000.00) money market placements of Ms. Sabeniano with the Ayala Investment & Development Corporation (AIDC) with legal interest at the rate of twelve percent (12%) per annum compounded yearly, from 30 September 1976 until fully paid;

- Ordering defendants-appellants to jointly and severally pay the plaintiff-appellant the sum of FIVE HUNDRED THOUSAND PESOS (P500,000.00) by way of moral damages, FIVE HUNDRED THOUSAND PESOS (P500,000.00) as exemplary damages, and ONE HUNDRED THOUSAND PESOS (P100,000.00) as attorney's fees.

Acting on petitioners' Motion for Partial Reconsideration, the Court of Appeals issued a Resolution,[6] dated 20 November 2002, modifying its earlier Decision, thus -

WHEREFORE, premises considered, the instant Motion for Reconsideration is PARTIALLY GRANTED as Sub-paragraph (V) paragraph 3 of the assailed Decision's dispositive portion is hereby ordered DELETED.

The challenged 26 March 2002 Decision of the Court is AFFIRMED with MODIFICATION.

Since the Court of Appeals Decision, dated 26 March 2002, as modified by the Resolution of the same court, dated 20 November 2002, was still principally in favor of respondent, petitioners filed the instant Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court. After giving due course to the instant Petition, this Court promulgated on 16 October 2006 its Decision, now subject of petitioners' Motion for Partial Reconsideration.

Among the numerous grounds raised by petitioners in their Motion for Partial Reconsideration, this Court shall address and discuss herein only particular points that had not been considered or discussed in its Decision. Even in consideration of these points though, this Court remains unconvinced that it should modify or reverse in any

way its disposition of the case in its earlier Decision.

As to the off-setting or compensation
of respondent's outstanding loan
balance with her dollar deposits in
Citibank-Geneva

Petitioners' take exception to the following findings made by this Court in its Decision, dated 16 October 2006, disallowing the off-setting or compensation of the balance of respondent's outstanding loans using her dollar deposits in Citibank-Geneva -

Without the Declaration of Pledge, petitioner Citibank had no authority to demand the remittance of respondent's dollar accounts with Citibank-Geneva and to apply them to her outstanding loans. It cannot effect legal compensation under Article 1278 of the Civil Code since, petitioner Citibank itself admitted that Citibank-Geneva is a distinct and separate entity. As for the dollar accounts, respondent was the creditor and Citibank-Geneva is the debtor; and as for the outstanding loans, petitioner Citibank was the creditor and respondent was the debtor. The parties in these transactions were evidently not the principal creditor of each other.

Petitioners maintain that respondent's Declaration of Pledge, by virtue of which she supposedly assigned her dollar accounts with Citibank-Geneva as security for her loans with petitioner Citibank, is authentic and, thus, valid and binding upon respondent. Alternatively, petitioners aver that even without said Declaration of Pledge, the off-setting or compensation made by petitioner Citibank using respondent's dollar accounts with Citibank-Geneva to liquidate the balance of her outstanding loans with Citibank-Manila was expressly authorized by respondent herself in the promissory notes (PNs) she signed for her loans, as well as sanctioned by Articles 1278 to 1290 of the Civil Code. This alternative argument is anchored on the premise that all branches of petitioner Citibank in the Philippines and abroad are part of a single worldwide corporate entity and share the same juridical personality. In connection therewith, petitioners deny that they ever admitted that Citibank-Manila and Citibank-Geneva are distinct and separate entities.

Petitioners call the attention of this Court to the following provision found in all of the PNs[7] executed by respondent for her loans -

At or after the maturity of this note, or when same becomes due under any of the provisions hereof, any money, stocks, bonds, or other property of any kind whatsoever, on deposit or otherwise, to the credit of the undersigned on the books of CITIBANK, N.A. in transit or in their possession, may without notice be applied at the discretion of the said bank to the full or partial payment of this note.

It is the petitioners' contention that the term "Citibank, N.A." used therein should be deemed to refer to all branches of petitioner Citibank in the Philippines and abroad; thus, giving petitioner Citibank the authority to apply as payment for the PNs even respondent's dollar accounts with Citibank-Geneva. Still proceeding from the premise that all branches of petitioner Citibank should be considered as a single entity, then it should not matter that the respondent obtained the loans from Citibank-Manila and her deposits were with Citibank-Geneva. Respondent should be considered the debtor (for the loans) and creditor (for her deposits) of the same entity, petitioner Citibank. Since petitioner Citibank and respondent were principal creditors of each other, in compliance with the requirements under Article 1279 of the Civil Code,[8] then the former could have very well used off-setting or compensation to extinguish the parties' obligations to one another. And even without the PNs, off-setting or compensation was still authorized because according to Article 1286 of the Civil Code, "Compensation takes place by operation of law, even though the debts may be payable at different places, but there shall be an indemnity for expenses of exchange or transportation to the place of payment."

Pertinent provisions of Republic Act No. 8791, otherwise known as the General Banking Law of 2000, governing bank branches are reproduced below -

SEC. 20. Bank Branches. - Universal or commercial banks may open branches or other offices within or outside the Philippines upon prior approval of the Bangko Sentral.

Branching by all other banks shall be governed by pertinent laws.

A bank may, subject to prior approval of the Monetary Board, use any or all of its branches as outlets for the presentation and/or sale of the financial products of its allied undertaking or its investment house units.

A bank authorized to establish branches or other offices shall be responsible for all business conducted in such branches and offices to the same extent and in the same manner as though such business had all been conducted in the head office. A bank and its branches and offices shall be treated as one unit.

x x x x

SEC. 72. Transacting Business in the Philippines. - The entry of foreign banks in the Philippines through the establishment of branches shall be governed by the provisions of the Foreign Banks Liberalization Act.

The conduct of offshore banking business in the Philippines shall be governed by the provisions of Presidential Decree No. 1034, otherwise known as the "Offshore Banking System Decree."

x x x x

SEC. 74. Local Branches of Foreign Banks. - In case of a foreign bank which has more than one (1) branch in the Philippines, all such branches shall be treated as one (1) unit for the purpose of this Act, and all references to the Philippine branches of foreign banks shall be held to refer to such units.

SEC. 75. Head Office Guarantee. - In order to provide effective protection of the interests of the depositors and other creditors of Philippine branches of a foreign bank, the head office of such branches shall fully guarantee the prompt payment of all liabilities of its Philippine branch.

Residents and citizens of the Philippines who are creditors of a branch in the Philippines of a foreign bank shall have preferential rights to the assets of such branch in accordance with existing laws.

Republic Act No. 7721, otherwise known as the Foreign Banks Liberalization Law, lays down the policies and regulations specifically concerning the establishment and operation of local branches of foreign banks. Relevant provisions of the said statute read -

Sec. 2. Modes of Entry. - The Monetary Board may authorize foreign banks to operate in the Philippine banking system through any of the following modes of entry: (i) by acquiring, purchasing or owning up to sixty percent (60%) of the voting stock of an existing bank; (ii) by investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or (iii) by establishing branches with full banking authority: Provided, That a foreign bank may avail itself of only one (1) mode of entry: Provided, further, That a foreign bank or a Philippine corporation may own up to a sixty percent (60%) of the voting stock of only one (1) domestic bank or new banking subsidiary.

Sec. 5. Head Office Guarantee. - The head office of foreign bank branches shall guarantee prompt payment of all liabilities of its Philippine branches.

It is true that the afore-quoted Section 20 of the General Banking Law of 2000 expressly states that the bank and its branches shall be treated as one unit. It should be pointed out, however, that the said provision applies to a universal^[9] or commercial bank,^[10] duly established and organized as a Philippine corporation in accordance with Section 8 of the same statute,^[11] and authorized to establish branches within or outside the Philippines.

The General Banking Law of 2000, however, does not make the same categorical statement as regards to foreign

banks and their branches in the Philippines. What Section 74 of the said law provides is that in case of a foreign bank with several branches in the country, all such branches shall be treated as one unit. As to the relations between the local branches of a foreign bank and its head office, Section 75 of the General Banking Law of 2000 and Section 5 of the Foreign Banks Liberalization Law provide for a "Home Office Guarantee," in which the head office of the foreign bank shall guarantee prompt payment of all liabilities of its Philippine branches. While the Home Office Guarantee is in accord with the principle that these local branches, together with its head office, constitute but one legal entity, it does not necessarily support the view that said principle is true and applicable in all circumstances.

The Home Office Guarantee is included in Philippine statutes clearly for the protection of the interests of the depositors and other creditors of the local branches of a foreign bank.[12] Since the head office of the bank is located in another country or state, such a guarantee is necessary so as to bring the head office within Philippine jurisdiction, and to hold the same answerable for the liabilities of its Philippine branches. Hence, the principle of the singular identity of that the local branches and the head office of a foreign bank are more often invoked by the clients in order to establish the accountability of the head office for the liabilities of its local branches. It is under such attendant circumstances in which the American authorities and jurisprudence presented by petitioners in their Motion for Partial Reconsideration were rendered.

Now the question that remains to be answered is whether the foreign bank can use the principle for a reverse purpose, in order to extend the liability of a client to the foreign bank's Philippine branch to its head office, as well as to its branches in other countries. Thus, if a client obtains a loan from the foreign bank's Philippine branch, does it absolutely and automatically make the client a debtor, not just of the Philippine branch, but also of the head office and all other branches of the foreign bank around the world? This Court rules in the negative.

There being a dearth of Philippine authorities and jurisprudence on the matter, this Court, just as what petitioners have done, turns to American authorities and jurisprudence. American authorities and jurisprudence are significant herein considering that the head office of petitioner Citibank is located in New York, United States of America (U.S.A.).

Unlike Philippine statutes, the American legislation explicitly defines the relations among foreign branches of an American bank. Section 25 of the United States Federal Reserve Act[13] states that -

Every national banking association operating foreign branches shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

Contrary to petitioners' assertion that the accounts of Citibank-Manila and Citibank-Geneva should be deemed as a single account under its head office, the foregoing provision mandates that the accounts of foreign branches of an American bank shall be conducted independently of each other. Since the head office of petitioner Citibank is in the U.S.A., then it is bound to treat its foreign branches in accordance with the said provision. It is only at the end of its fiscal period that the bank is required to transfer to its general ledger the profit or loss accrued at each branch, but still reporting it as a separate item. It is by virtue of this provision that the Circuit Court of Appeals of New York declared in *Pan-American Bank and Trust Co. v. National City Bank of New York*[14] that a branch is not merely a teller's window; it is a separate business entity.

The circumstances in the case of *McGrath v. Agency of Chartered Bank of India, Australia & China*[15] are closest to the one at bar. In said case, the Chartered Bank had branches in several countries, including one in Hamburg, Germany and another in New York, U.S.A., and yet another in London, United Kingdom. The New

York branch entered in its books credit in favor of four German firms. Said credit represents collections made from bills of exchange delivered by the four German firms. The same four German firms subsequently became indebted to the Hamburg branch. The London branch then requested for the transfer of the credit in the name of the German firms from the New York branch so as to be applied or setoff against the indebtedness of the same firms to the Hamburg branch. One of the question brought before the U.S. District Court of New York was "whether or not the debts and the alleged setoffs thereto are mutual," which could be answered by determining first whether the New York and Hamburg branches of Chartered Bank are individual business entities or are one and the same entity. In denying the right of the Hamburg branch to setoff, the U.S. District Court ratiocinated that

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The structure of international banking houses such as Chartered bank defies one rigorous description. Suffice it to say for present analysis, branches or agencies of an international bank have been held to be independent entities for a variety of purposes (a) deposits payable only at branch where made; *Mutaugh v. Yokohama Specie Bank, Ltd.*, 1933, 149 Misc. 693, 269 N.Y.S. 65; *Bluebird Undergarment Corp. v. Gomez*, 1931, 139 Misc. 742, 249 N.Y.S. 319; (b) checks need be honored only when drawn on branch where deposited; *Chrzanowska v. Corn Exchange Bank*, 1916, 173 App. Div. 285, 159 N.Y.S. 385, affirmed 1919, 225 N.Y. 728, 122 N.E. 877; subpoena duces tecum on foreign bank's record barred; *In re Harris*, D.C.S.D.N.Y. 1939, 27 F. Supp. 480; (d) a foreign branch separate for collection of forwarded paper; *Pan-American Bank and Trust Company v. National City Bank of New York*, 2 Cir., 1925, 6 F. 2d 762, certiorari denied 1925, 269 U.S. 554, 46 S. Ct. 18, 70 L. Ed. 408. Thus in law there is nothing innately unitary about the organization of international banking institutions.

Defendant, upon its oral argument and in its brief, relies heavily on *Sokoloff v. National City Bank of New York*, 1928, 250 N.Y. 69, 164 N.E. 745, as authority for the proposition that Chartered Bank, not the Hamburg or New York Agency, is ultimately responsible for the amounts owing its German customers and, conversely, it is to Chartered Bank that the German firms owe their obligations. The *Sokoloff* case, aside from its violently different fact situation, is centered on the legal problem of default of payment and consequent breach of contract by a branch bank. It does not stand for the principle that in every instance an international bank with branches is but one legal entity for all purposes. The defendant concedes in its brief (p. 15) that there are purposes for which the various agencies and branches of Chartered Bank may be treated in law as separate entities. I fail to see the applicability of *Sokoloff* either as a guide to or authority for the resolution of this problem. The facts before me and the cases catalogued supra lend weight to the view that we are dealing here with Agencies independent of one another.

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I hold that for instant purposes the Hamburg Agency and defendant were independent business entities, and the attempted setoff may not be utilized by defendant against its debt to the German firms obligated to the Hamburg Agency.

Going back to the instant Petition, although this Court concedes that all the Philippine branches of petitioner Citibank should be treated as one unit with its head office, it cannot be persuaded to declare that these Philippine branches are likewise a single unit with the Geneva branch. It would be stretching the principle way beyond its intended purpose.

Therefore, this Court maintains its original position in the Decision that the off-setting or compensation of respondent's loans with Citibank-Manila using her dollar accounts with Citibank-Geneva cannot be effected. The parties cannot be considered principal creditor of the other. As for the dollar accounts, respondent was the creditor and Citibank-Geneva was the debtor; and as for the outstanding loans, petitioner Citibank, particularly Citibank-Manila, was the creditor and respondent was the debtor. Since legal compensation was not possible,

petitioner Citibank could only use respondent's dollar accounts with Citibank-Geneva to liquidate her loans if she had expressly authorized it to do so by contract.

Respondent cannot be deemed to have authorized the use of her dollar deposits with Citibank-Geneva to liquidate her loans with petitioner Citibank when she signed the PNs[16] for her loans which all contained the provision that -

At or after the maturity of this note, or when same becomes due under any of the provisions hereof, any money, stocks, bonds, or other property of any kind whatsoever, on deposit or otherwise, to the credit of the undersigned on the books of CITIBANK, N.A. in transit or in their possession, may without notice be applied at the discretion of the said bank to the full or partial payment of this note.

As has been established in the preceding discussion, "Citibank, N.A." can only refer to the local branches of petitioner Citibank together with its head office. Unless there is any showing that respondent understood and expressly agreed to a more far-reaching interpretation, the reference to Citibank, N.A. cannot be extended to all other branches of petitioner Citibank all over the world. Although theoretically, books of the branches form part of the books of the head office, operationally and practically, each branch maintains its own books which shall only be later integrated and balanced with the books of the head office. Thus, it is very possible to identify and segregate the books of the Philippine branches of petitioner Citibank from those of Citibank-Geneva, and to limit the authority granted for application as payment of the PNs to respondent's deposits in the books of the former.

Moreover, the PNs can be considered a contract of adhesion, the PNs being in standard printed form prepared by petitioner Citibank. Generally, stipulations in a contract come about after deliberate drafting by the parties thereto, there are certain contracts almost all the provisions of which have been drafted only by one party, usually a corporation. Such contracts are called contracts of adhesion, because the only participation of the party is the affixing of his signature or his "adhesion" thereto. This being the case, the terms of such contract are to be construed strictly against the party which prepared it.[17]

As for the supposed Declaration of Pledge of respondent's dollar accounts with Citibank-Geneva as security for the loans, this Court stands firm on its ruling that the non-production thereof is fatal to petitioners' cause in light of respondent's claim that her signature on such document was a forgery. It bears to note that the original of the Declaration of Pledge is with Citibank-Geneva, a branch of petitioner Citibank. As between respondent and petitioner Citibank, the latter has better access to the document. The constant excuse forwarded by petitioner Citibank that Citibank-Geneva refused to return possession of the original Declaration of Pledge to Citibank-Manila only supports this Court's finding in the preceding paragraphs that the two branches are actually operating separately and independently of each other.

Further, petitioners keep playing up the fact that respondent, at the beginning of the trial, refused to give her specimen signatures to help establish whether her signature on the Declaration of Pledge was indeed forged. Petitioners seem to forget that subsequently, respondent, on advice of her new counsel, already offered to cooperate in whatever manner so as to bring the original Declaration of Pledge before the RTC for inspection. The exchange of the counsels for the opposing sides during the hearing on 24 July 1991 before the RTC reveals the apparent willingness of respondent's counsel to undertake whatever course of action necessary for the production of the contested document, and the evasive, non-committal, and uncooperative attitude of petitioners' counsel.[18]

Lastly, this Court's ruling striking down the Declaration of Pledge is not entirely based on respondent's allegation of forgery. In its Decision, this Court already extensively discussed why it found the said Declaration of Pledge highly suspicious and irregular, to wit -

First of all, it escapes this Court why petitioner Citibank took care to have the Deeds of Assignment of the PNs

notarized, yet left the Declaration of Pledge unnotarized. This Court would think that petitioner Citibank would take greater cautionary measures with the preparation and execution of the Declaration of Pledge because it involved respondent's "all present and future fiduciary placements" with a Citibank branch in another country, specifically, in Geneva, Switzerland. While there is no express legal requirement that the Declaration of Pledge had to be notarized to be effective, even so, it could not enjoy the same prima facie presumption of due execution that is extended to notarized documents, and petitioner Citibank must discharge the burden of proving due execution and authenticity of the Declaration of Pledge.

Second, petitioner Citibank was unable to establish the date when the Declaration of Pledge was actually executed. The photocopy of the Declaration of Pledge submitted by petitioner Citibank before the RTC was undated. It presented only a photocopy of the pledge because it already forwarded the original copy thereof to Citibank-Geneva when it requested for the remittance of respondent's dollar accounts pursuant thereto. Respondent, on the other hand, was able to secure a copy of the Declaration of Pledge, certified by an officer of Citibank-Geneva, which bore the date 24 September 1979. Respondent, however, presented her passport and plane tickets to prove that she was out of the country on the said date and could not have signed the pledge. Petitioner Citibank insisted that the pledge was signed before 24 September 1979, but could not provide an explanation as to how and why the said date was written on the pledge. Although Mr. Tan testified that the Declaration of Pledge was signed by respondent personally before him, he could not give the exact date when the said signing took place. It is important to note that the copy of the Declaration of Pledge submitted by the respondent to the RTC was certified by an officer of Citibank-Geneva, which had possession of the original copy of the pledge. It is dated 24 September 1979, and this Court shall abide by the presumption that the written document is truly dated. Since it is undeniable that respondent was out of the country on 24 September 1979, then she could not have executed the pledge on the said date.

Third, the Declaration of Pledge was irregularly filled-out. The pledge was in a standard printed form. It was constituted in favor of Citibank, N.A., otherwise referred to therein as the Bank. It should be noted, however, that in the space which should have named the pledgor, the name of petitioner Citibank was typewritten, to wit -

The pledge right herewith constituted shall secure all claims which the Bank now has or in the future acquires against Citibank, N.A., Manila (full name and address of the Debtor), regardless of the legal cause or the transaction (for example current account, securities transactions, collections, credits, payments, documentary credits and collections) which gives rise thereto, and including principal, all contractual and penalty interest, commissions, charges, and costs.

The pledge, therefore, made no sense, the pledgor and pledgee being the same entity. Was a mistake made by whoever filled-out the form? Yes, it could be a possibility. Nonetheless, considering the value of such a document, the mistake as to a significant detail in the pledge could only be committed with gross carelessness on the part of petitioner Citibank, and raised serious doubts as to the authenticity and due execution of the same. The Declaration of Pledge had passed through the hands of several bank officers in the country and abroad, yet, surprisingly and implausibly, no one noticed such a glaring mistake.

Lastly, respondent denied that it was her signature on the Declaration of Pledge. She claimed that the signature was a forgery. When a document is assailed on the basis of forgery, the best evidence rule applies -

Basic is the rule of evidence that when the subject of inquiry is the contents of a document, no evidence is admissible other than the original document itself except in the instances mentioned in Section 3, Rule 130 of the Revised Rules of Court. Mere photocopies of documents are inadmissible pursuant to the best evidence rule. This is especially true when the issue is that of forgery.

As a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery. The best evidence of a forged signature in an instrument is the instrument itself reflecting the alleged forged signature. The fact of forgery can only be established by a

comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is theorized upon to have been forged. Without the original document containing the alleged forged signature, one cannot make a definitive comparison which would establish forgery. A comparison based on a mere xerox copy or reproduction of the document under controversy cannot produce reliable results.

Respondent made several attempts to have the original copy of the pledge produced before the RTC so as to have it examined by experts. Yet, despite several Orders by the RTC, petitioner Citibank failed to comply with the production of the original Declaration of Pledge. It is admitted that Citibank-Geneva had possession of the original copy of the pledge. While petitioner Citibank in Manila and its branch in Geneva may be separate and distinct entities, they are still incontestably related, and between petitioner Citibank and respondent, the former had more influence and resources to convince Citibank-Geneva to return, albeit temporarily, the original Declaration of Pledge. Petitioner Citibank did not present any evidence to convince this Court that it had exerted diligent efforts to secure the original copy of the pledge, nor did it proffer the reason why Citibank-Geneva obstinately refused to give it back, when such document would have been very vital to the case of petitioner Citibank. There is thus no justification to allow the presentation of a mere photocopy of the Declaration of Pledge in lieu of the original, and the photocopy of the pledge presented by petitioner Citibank has nil probative value. In addition, even if this Court cannot make a categorical finding that respondent's signature on the original copy of the pledge was forged, it is persuaded that petitioner Citibank willfully suppressed the presentation of the original document, and takes into consideration the presumption that the evidence willfully suppressed would be adverse to petitioner Citibank if produced.

As far as the Declaration of Pledge is concerned, petitioners failed to submit any new evidence or argument that was not already considered by this Court when it rendered its Decision.

As to the value of the dollar deposits
in Citibank-Geneva ordered
refunded to respondent

In case petitioners are still ordered to refund to respondent the amount of her dollar accounts with Citibank-Geneva, petitioners beseech this Court to adjust the nominal values of respondent's dollar accounts and/or her overdue peso loans by using the values of the currencies stipulated at the time the obligations were established in 1979, to address the alleged inequitable consequences resulting from the extreme and extraordinary devaluation of the Philippine currency that occurred in the course of the Asian crisis of 1997. Petitioners base their request on Article 1250 of the Civil Code which reads, "In case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of payment, unless there is an agreement to the contrary."

It is well-settled that Article 1250 of the Civil Code becomes applicable only when there is extraordinary inflation or deflation of the currency. Inflation has been defined as the sharp increase of money or credit or both without a corresponding increase in business transaction. There is inflation when there is an increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level.[19] In *Singson v. Caltex (Philippines), Inc.*,[20] this Court already provided a discourse as to what constitutes as extraordinary inflation or deflation of currency, thus -

We have held extraordinary inflation to exist when there is a decrease or increase in the purchasing power of the Philippine currency which is unusual or beyond the common fluctuation in the value of said currency, and such increase or decrease could not have been reasonably foreseen or was manifestly beyond the contemplation of the parties at the time of the establishment of the obligation.

An example of extraordinary inflation, as cited by the Court in *Filipino Pipe and Foundry Corporation vs.*

NAWASA, supra, is that which happened to the deutschmark in 1920. Thus:

"More recently, in the 1920s, Germany experienced a case of hyperinflation. In early 1921, the value of the German mark was 4.2 to the U.S. dollar. By May of the same year, it had stumbled to 62 to the U.S. dollar. And as prices went up rapidly, so that by October 1923, it had reached 4.2 trillion to the U.S. dollar!" (Bernardo M. Villegas & Victor R. Abola, Economics, An Introduction [Third Edition]).

As reported, "prices were going up every week, then every day, then every hour. Women were paid several times a day so that they could rush out and exchange their money for something of value before what little purchasing power was left dissolved in their hands. Some workers tried to beat the constantly rising prices by throwing their money out of the windows to their waiting wives, who would rush to unload the nearly worthless paper. A postage stamp cost millions of marks and a loaf of bread, billions." (Sidney Rutberg, "The Money Balloon", New York: Simon and Schuster, 1975, p. 19, cited in "Economics, An Introduction" by Villegas & Abola, 3rd ed.)

The supervening of extraordinary inflation is never assumed. The party alleging it must lay down the factual basis for the application of Article 1250.

Thus, in the Filipino Pipe case, the Court acknowledged that the voluminous records and statistics submitted by plaintiff-appellant proved that there has been a decline in the purchasing power of the Philippine peso, but this downward fall cannot be considered "extraordinary" but was simply a universal trend that has not spared our country. Similarly, in Huibonhoa vs. Court of Appeals, the Court dismissed plaintiff-appellant's unsubstantiated allegation that the Aquino assassination in 1983 caused building and construction costs to double during the period July 1983 to February 1984. In Serra vs. Court of Appeals, the Court again did not consider the decline in the peso's purchasing power from 1983 to 1985 to be so great as to result in an extraordinary inflation.

Like the Serra and Huibonhoa cases, the instant case also raises as basis for the application of Article 1250 the Philippine economic crisis in the early 1980s --- when, based on petitioner's evidence, the inflation rate rose to 50.34% in 1984. We hold that there is no legal or factual basis to support petitioner's allegation of the existence of extraordinary inflation during this period, or, for that matter, the entire time frame of 1968 to 1983, to merit the adjustment of the rentals in the lease contract dated July 16, 1968. Although by petitioner's evidence there was a decided decline in the purchasing power of the Philippine peso throughout this period, we are hard put to treat this as an "extraordinary inflation" within the meaning and intent of Article 1250.

Rather, we adopt with approval the following observations of the Court of Appeals on petitioner's evidence, especially the NEDA certification of inflation rates based on consumer price index:

xxx (a) from the period 1966 to 1986, the official inflation rate never exceeded 100% in any single year; (b) the highest official inflation rate recorded was in 1984 which reached only 50.34%; (c) over a twenty one (21) year period, the Philippines experienced a single-digit inflation in ten (10) years (i.e., 1966, 1967, 1968, 1969, 1975, 1976, 1977, 1978, 1983 and 1986); (d) in other years (i.e., 1970, 1971, 1972, 1973, 1974, 1979, 1980, 1981, 1982, 1984 and 1989) when the Philippines experienced double-digit inflation rates, the average of those rates was only 20.88%; (e) while there was a decline in the purchasing power of the Philippine currency from the period 1966 to 1986, such cannot be considered as extraordinary; rather, it is a normal erosion of the value of the Philippine peso which is a characteristic of most currencies.

"Erosion" is indeed an accurate description of the trend of decline in the value of the peso in the past three to four decades. Unfortunate as this trend may be, it is certainly distinct from the phenomenon contemplated by Article 1250.

Moreover, this Court has held that the effects of extraordinary inflation are not to be applied without an official declaration thereof by competent authorities.

The burden of proving that there had been extraordinary inflation or deflation of the currency is upon the party that alleges it. Such circumstance must be proven by competent evidence, and it cannot be merely assumed. In this case, petitioners presented no proof as to how much, for instance, the price index of goods and services had risen during the intervening period.[21] All the information petitioners provided was the drop of the U.S. dollar-Philippine peso exchange rate by 17 points from June 1997 to January 1998. While the said figure was based on the statistics of the Bangko Sentral ng Pilipinas (BSP), it is also significant to note that the BSP did not categorically declare that the same constitute as an extraordinary inflation. The existence of extraordinary inflation must be officially proclaimed by competent authorities, and the only competent authority so far recognized by this Court to make such an official proclamation is the BSP.[22]

Neither can this Court, by merely taking judicial notice of the Asian currency crisis in 1997, already declare that there had been extraordinary inflation. It should be recalled that the Philippines likewise experienced economic crisis in the 1980s, yet this Court did not find that extraordinary inflation took place during the said period so as to warrant the application of Article 1250 of the Civil Code.

Furthermore, it is incontrovertible that Article 1250 of the Civil Code is based on equitable considerations. Among the maxims of equity are (1) he who seeks equity must do equity, and (2) he who comes into equity must come with clean hands. The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity.[23] Petitioner Citibank, hence, cannot invoke Article 1250 of the Civil Code because it does not come to court with clean hands. The delay in the recovery[24] by respondent of her dollar accounts with Citibank-Geneva was due to the unlawful act of petitioner Citibank in using the same to liquidate respondent's loans. Petitioner Citibank even attempted to justify the off-setting or compensation of respondent's loans using her dollar accounts with Citibank-Geneva by the presentation of a highly suspicious and irregular, and even possibly forged, Declaration of Pledge.

The damage caused to respondent of the deprivation of her dollar accounts for more than two decades is unquestionably relatively more extensive and devastating, as compared to whatever damage petitioner Citibank, an international banking corporation with undoubtedly substantial capital, may have suffered for respondent's non-payment of her loans. It must also be remembered that petitioner Citibank had already considered respondent's loans paid or liquidated by 26 October 1979 after it had fully effected compensation thereof using respondent's deposits and money market placements. All this time, respondent's dollar accounts are unlawfully in the possession of and are being used by petitioner Citibank for its business transactions. In the meantime, respondent's businesses failed and her properties were foreclosed because she was denied access to her funds when she needed them most. Taking these into consideration, respondent's dollar accounts with Citibank-Geneva must be deemed to be subsisting and continuously deposited with petitioner Citibank all this while, and will only be presently withdrawn by respondent. Therefore, petitioner Citibank should refund to respondent the U.S. \$149,632.99 taken from her Citibank-Geneva accounts, or its equivalent in Philippine currency using the exchange rate at the time of payment, plus the stipulated interest for each of the fiduciary placements and current accounts involved, beginning 26 October 1979.

As to respondent's Motion to Clarify
and/or Confirm Decision with Notice
of Judgment

Respondent, in her Motion, is of the mistaken notion that the Court of Appeals Decision, dated 26 March 2002, as modified by the Resolution of the same court, dated 20 November 2002, would be implemented or executed together with this Court's Decision.

This Court clarifies that its affirmation of the Decision of the Court of Appeals, as modified, is only to the extent that it recognizes that petitioners had liabilities to the respondent. However, this Court's Decision modified that of the appellate court's by making its own determination of the specific liabilities of the petitioners to respondent and the amounts thereof; as well as by recognizing that respondent also had liabilities to petitioner Citibank and the amount thereof.

Thus, for purposes of execution, the parties need only refer to the dispositive portion of this Court's Decision, dated 16 October 2006, should it already become final and executory, without any further modifications.

As the last point, there is no merit in respondent's Motion for this Court to already declare its Decision, dated 16 October 2006, final and executory. A judgment becomes final and executory by operation of law and, accordingly, the finality of the judgment becomes a fact upon the lapse of the reglementary period without an appeal or a motion for new trial or reconsideration being filed.[25] This Court cannot arbitrarily disregard the reglementary period and declare a judgment final and executory upon the mere motion of one party, for to do so will be a culpable violation of the right of the other parties to due process.

IN VIEW OF THE FOREGOING, petitioners' Motion for Partial Reconsideration of this Court's Decision, dated 16 October 2006, and respondent's Motion for this Court to declare the same Decision already final and executory, are both DENIED for lack of merit.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Minita V. Chico-Nazario with Chief Justice Artemio V. Panganiban, Associate Justices Consuelo Ynares-Santiago, Ma. Alicia Austria-Martinez, and Romeo J. Callejo, concurring; rollo, Vol. II, pp. 1897-1898.

[2] Petitioner Investors' Finance Corporation, did business under the name and style of FNCB Finance. As noted in the Decision, it is now, by virtue of a merger, doing business as part of its successor-in-interest, BPI Finance Corporation. However, the said petitioner shall be referred to herein as FNCB Finance, consistent with the reference used in the Decision.

[3] "Manila," as used herein, is descriptive of any of the branches of petitioner Citibank in the Philippines, the capital of which is the City of Manila. Respondent was actually dealing with the branch of petitioner Citibank in Makati City.

[4] Penned by Judge Manuel D. Victorio, Records, Vol. III, pp. 1607-1621.

[5] Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Conrado M. Vasquez, Jr. and Amelita G. Tolentino, concurring; rollo, Vol. I, pp. 365-366.

[6] Penned by Associate Justice Andres B. Reyes, Jr. with Associate Justices Conrado M. Vasquez, Jr. and Amelita G. Tolentino, concurring; id. at 374.

[7] Exhibits "18" to "26," defendants' folder of exhibits, pp. 83-91.

[8] Article 1279 of the Civil Code reads -

ART. 1279. In order that compensation may be proper, it is necessary:

- That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;

- That both debts consist in a sum of money, or if the things due are consumable, they be of at the same kinds, and also of the same quality if the latter has been stated;
- That the two debts are due;
- That they be liquidated and demandable;
- That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

[9] A universal bank shall have the authority to exercise, in addition to the powers authorized for a commercial bank in Section 29, the powers of an investment house as provided in existing laws and the power to invest in non-allied enterprises as provided in this Act. (The General Banking Law of 2000, Section 23)

[10] A commercial bank shall have, in addition to the general powers incident to corporations, all such powers as may be necessary to carry on the business of commercial banking, such as accepting drafts and issuing letters of credit; discounting and negotiating promissory notes, drafts, bills of exchange, and other evidence of debt; accepting or creating demand deposits; receiving other types of deposits and deposit substitutes; buying and selling foreign exchange and gold or silver bullion; acquiring marketable bonds and other debt securities; and extending credit, subject to such rules as the Monetary Board may promulgate. These rules may include the determination of bonds and other debt securities eligible for investment, the maturities and aggregate amount of such investment, the maturities and aggregate amount of investment. (The General Banking Law of 2000, Section 29)

[11] The full text of Section 8 of the General Banking Law of 2000 is as follows -

SEC. 8. Organization. - The Monetary Board may authorize the organization of a bank or quasi-bank subject to the following conditions:

- 8.1. That the entity is a stock corporation;
- 8.2. That its funds are obtained from the public, which shall mean twenty (20) or more persons; and
- 8.3. That the minimum capital requirements prescribed by the Monetary Board for each category of banks are satisfied.

No new commercial bank shall be established within three (3) years from the effectivity of this Act. In the exercise of the authority granted herein, the Monetary Board shall take into consideration their capability in terms of their financial resources and technical expertise and integrity. The bank licensing process shall incorporate an assessment of the bank's ownership structure, directors and senior management, its operating plan and internal controls as well as its projected financial condition and capital base.

[12] See Section 75, the General Banking Law of 2000.

[13] 12 U.S.C.A., § 604.

[14] 6 F. 2d 762. (1925); See also Republic of China v. National City Bank of New York, 208 F. 2d 627 (1954).

[15] 104 F. Supp. 964 (1952).

[16] Supra note 7.

[17] BPI Credit Corp. vs. Court of Appeals , G.R. No. 96755, 4 December 1991, 204 SCRA 601, 616.

[18] See TSN, Vol. XII, 24 July 1991, pp. 30-40.

[19] *Huibonhoa v. Court of Appeals*, 378 Phil. 386, 410 (1999).

[20] 396 Phil. 245, 253-255 (2000).

[21] *Sangrador v. Valderrama*, G.R. No. L-79552, 29 November 1988, 168 SCRA 215, 228-229.

[22] *Ramos v. Court of Appeals*, G.R. No. 119872, 7 July 1997, 275 SCRA 167, 175.

[23] *Pilapil v. Garchitorena*, G.R. No. 128790, 25 November 1998, 299 SCRA 343, 359; *University of the Philippines v. Hon. Catungal, Jr.*, G.R. No. 121863, 5 May 1997, 272 SCRA 221, 237.

[24] See *Gatlabayan v. Ramirez*, 134 Phil. 267, 272 (1968).

[25] *Munez v. Court of Appeals*, G.R. No. L-46010, 23 July 1987, 152 SCRA 197, 201-202, in relation to Section 10, Rule 51 of the revised Rules of Court, which provides -

SEC. 10. Entry of judgments and final resolutions. - If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The record shall contain the dispositive part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or final resolution has become final and executory.

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